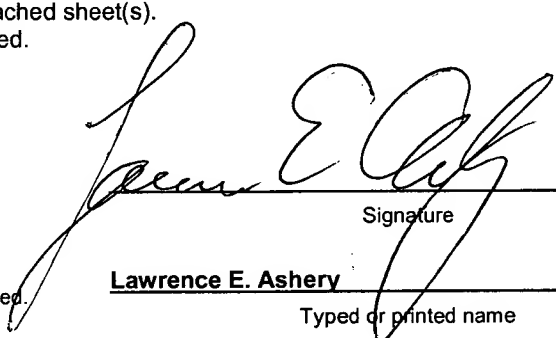




PTO/SB/33 (07-05)  
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| PRE-APPEAL BRIEF REQUEST FOR REVIEW  |  | Docket Number (Optional)<br><b>MAT-8014US</b>           |                                    |
|--|--|---|------------------------------------|
| <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>January 26, 2006</u></p> <p>Signature <u>Deborah Spratt</u></p> <p>Typed or printed name <u>Deborah Spratt</u></p>   |  | Application Number<br><b>09/646,665</b>                 | Filed<br><b>November 27, 2000</b>  |
|  |  | First Named Inventor<br><b>Masaaki Higashida et al.</b> |                                    |
|  |  | Art Unit<br><b>2662</b>                                 | Examiner<br><b>Donald L. Mills</b> |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).<br/>Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest.<br/>See 37 CFR 3.7.1 Statement under 37 CFR 3.73(b) is enclosed.<br/>(Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record.<br/>Registration number <u>34,515</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.<br/>Registration number if acting under 37 CFR 1.34 _____</p> <p><br/>Signature<br/><u>Lawrence E. Ashery</u><br/>Typed or printed name<br/><u>610-407-0700</u><br/>Telephone number<br/><u>January 26, 2006</u><br/>Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> |  |   |                                    |

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| <input type="checkbox"/> *Total of _____ forms are submitted |
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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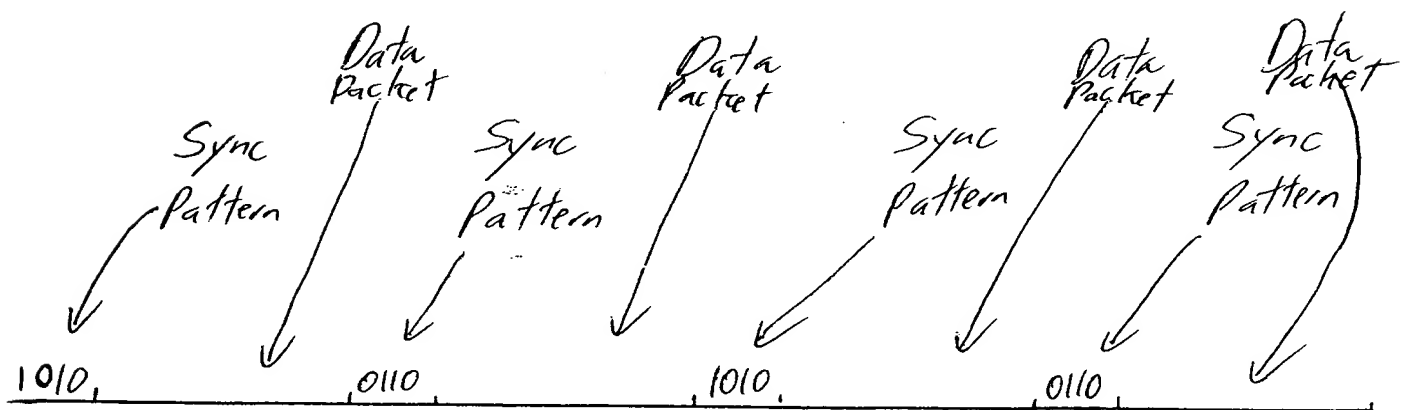
Claims 1, 2 and 12-16 have been rejected under 35 U.S.C. §102(b) as being anticipated by Johnson et al. (US 5,289,476). It is respectfully submitted, however, that these claims are patentable over Johnson for the reasons set forth below.

The present invention relates to a method and apparatus for transmitting data packets.

In an exemplary embodiment of the present invention which corresponds to claim 1, the following steps are performed:

- generate a fixed pattern (example: fixed pattern = 10);
- generate variable patterns (example: first variable pattern = 10; second variable pattern = 01);
- generate sync patterns by combining the fixed pattern and each of the variable patterns (example: first sync pattern = first variable pattern + fixed pattern = 1010; second sync pattern = second variable pattern + fixed pattern = 0110)
- add a different sync pattern to each consecutive data packets (example: first sync pattern 1010 added to one data packet; second sync pattern 0110 added to a consecutive data packet).

This may be illustrated as shown below:



Again, consecutive data packets are shown each preceded by respectively different sync patterns. In the exemplary illustration shown, a first sync pattern 1010 precedes one data packet while a different sync pattern 0110 precedes a consecutive data packet.

This exemplary illustration corresponds, for example, to the following language which appears in Applicants' claim 1:

... generating sync patterns comprising 'q' words ... each of the sync patterns formed by combining the fixed pattern in one of the variable patterns ...

... adding one of said sync patterns to each of said data packets in a data stream, wherein consecutive ones of said data packets each have added respectively different variable patterns.

This is very different than Johnson. Johnson discloses the use of sync patterns which are used for BPSK or QPSK transmissions. For each BPSK transmission, however, the sync pattern will be the same. Similarly, for each QPSK transmission the sync pattern will be the same. Even if Johnson were evaluated from the perspective of shifting transmission format from BPSK to QPSK, Applicants claims would not be read on Johnson as such a shift would not constitute "a data stream" as recited in Applicants' claim 1. Accordingly, claim 1 is patentable over the art of record.

Claim 14, while not identical to claim 1, is also patentable over the art of record for reasons similar to those set forth above with regard to claim 1. Claims 2, 12, 13, 15 and 16, are patentable by virtue of their dependency on allowable independent claims.

Claims 3-6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson. These claims, however, are patentable by virtue of their dependency on an allowable independent claim.

Claims 8-11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson in view of Lawrence (US 6,208,666). These claims,

however, are also patentable by virtue of their dependency on an allowable independent claim.

Claim 7 was previously indicated as including allowable subject matter.

In view of the arguments set forth above, the above-identified application is in condition for allowance which action is respectfully requested.